

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 10,484

IN THE MATTER OF:

Served May 10, 2007

Petition of BROOK TRANSPORTATION)
SERVICE, INC., WMATC No. 894, to)
Waive Regulation No. 67-03(a))

Case No. MP-2007-092

Petition of BENNETH IFEANYICHUK)
EKWE, Trading as WHOLISTIC CARE)
TRANSPORTATION SERVICES, WMATC)
No. 1153, to Waive Regulation)
No. 67-03(a), (b))

Case No. MP-2007-093

Petition of HATIM AWAD HAMED)
ELFAKI, Trading as H AND S TRANS,)
WMATC No. 1186, to Waive Regulation)
No. 67-03(a), (b))

Case No. MP-2007-094

Commission Regulation No. 60-01 provides that each carrier holding a certificate of authority on the first day of the calendar year shall file an annual report on or before January 31 of that year. Regulation No. 67-02 provides that each carrier holding a certificate of authority on the first day of the calendar year shall pay an annual fee of \$150 on or before January 31 of that year.

Each of the above-captioned carriers held a certificate of authority on January 1, 2007. Each failed to comply with Regulation No. 60-01 and/or Regulation No. 67-02 on or before January 31. As a result, each was automatically assessed \$100 or \$200 in late fees pursuant to Regulation No. 67-03, effective February 1.

Each carrier has filed a petition to waive Regulation No. 67-03. Under Rule No. 20-02, the Commission may consolidate two or more proceedings involving a common question of law or fact. Here, the common question is whether the Commission should grant relief and waive the late fees assessed against petitioners pursuant to Rule No. 29.

Commission Rule No. 29 provides that the Commission may waive its rules "upon the filing of a motion showing good cause."¹ Hence, the question is whether which if any of these petitioners has shown good cause for waiving said late fees.

¹ See *In re Markos Asnake, t/a A&T Transport*, No. MP-06-159, Order No. 10,112 (Nov. 30, 2006) (waiving Regulation No. 67-03(c)).

Brook Transportation Service failed to file a complete annual report on time. The vehicle identification number for Brook's only vehicle was not entered on the first filed report. It took two promptings by Commission staff to elicit a corrected report. Payment of the late fee was not tendered until April. This does not constitute good cause.

Benneth Ekwe did not pay the annual fee until February 8. That same day, he filed the first page of the 2-page annual report but not the second page. Mr. Ekwe was apparently responding to staff's letter of February 7 reminding him of his obligations under Regulation Nos. 60 and 67. Mr. Ekwe did not file a complete annual report and pay the late fees until May 1 - and only after repeated prompting by staff. This does not constitute good cause.

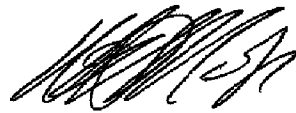
Mr. Elfaki did not pay the annual fee until April 13 and did not file his annual report and pay the late fees until April 27. Mr. Elfaki claims he was out of the country on vacation during January. This does not constitute good cause.

THEREFORE, IT IS ORDERED:

1. That Case Nos. MP-07-092, MP-07-093, and MP-07-094 are hereby consolidated pursuant to Commission Rule No. 20-02.

2. That all petitions are denied.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:



William S. Morrow, Jr.
Executive Director